

The Honorable John C. Coughenour
The Honorable Marsha Pechman
The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LUIS TORRES, Individually and on behalf of all others)
similarly situated,)

Plaintiff,)

vs.)

MICROSOFT CORPORATION, a Washington)
Corporation,)

Defendant.)

No. 07-CV-1121 JCC

Hon. John C. Coughenour

**DECLARATION OF JEFFREY OSTROW IN
SUPPORT OF DESIGNATION OF THE
HODKIN KOPELOWITZ OSTROW FIRM,
P.A. AS INTERIM COUNSEL FOR THE
PUTATIVE CLASS PURSUANT TO
FED.R.CIV.P. 23(g)(2)(A)**

STEVE CARLIE, Individually and On Behalf of All)
Others Similarly Situated,)

Plaintiff,)

vs.)

MICROSOFT CORPORATION, a Washington)
Corporation,)

Defendant.)

No. 07-CV-1132 CMP

Hon. Marsha J. Pechman

[Caption continues on next page.]

1	CHRISTINE MOSKOWITZ and DAVID WOOD,)	No. 07-CV-1270
2	Individually and on behalf of all others similarly situated,)	
3)	Hon. John C. Coughenour
4	Plaintiffs,)	
5)	
6	vs.)	
7)	
8	MICROSOFT CORPORATION, a Washington)	
9	Corporation,)	
10)	
11	Defendant.)	

12	HEIDI LING, AS PARENT AND NATURAL)	No. 07-CV-1271
13	GUARDIAN OF ROBERT LING, III, Individually and)	
14	on behalf of all others similarly situated,)	Hon. James L. Robart
15)	
16	Plaintiff,)	
17)	
18	vs.)	
19)	
20	MICROSOFT CORPORATION, a Washington)	
21	Corporation,)	
22)	
23	Defendant.)	

JEFFREY M. OSTROW hereby declares as follows:

1. I am an attorney admitted to practice in the state of Florida and am seeking admission pro hac vice in this case. I am the managing partner in The Hodkin Kopelowitz Ostrow Firm, P.A. ("THKO") in Ft. Lauderdale, Florida and I am the managing attorney at THKO for this litigation.

2. I submit this Declaration in support of the motion by Plaintiffs in the above-captioned actions to appoint THKO, Stritmatter Kessler Whelan Coluccio, Chitwood Harley Harnes, LLP, Kabateck Brown Kellner LLP, Keller Rohrback LLP, Krause Kalfayan Benink and Slavens, LLP, and Wasserman Comden &

1 Casselman, LLC as interim counsel to act on behalf of the putative class pursuant
2 to Fed.R.Civ.P. 23(g)(2)(A).
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4 3. THKO has performed significant work in identifying and
5 investigating potential claims in this action. We have conducted several months of
6 factual research into the problem of Microsoft Corporation's ("Microsoft") Xbox
7 360 consoles (the "Xbox 360") and more specifically the fact that the Xbox 360
8 renders discs inoperable by scratching them during the normal and intended use of
9 the Xbox 360 console. Further, we have undertaken extensive legal research in
10 determining what causes of action these underlying facts will support.
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13 4. We have expended significant time processing and responding
14 inquiries from prospective members of the putative class (over 150 to date),
15 interviewing prospective representative plaintiffs, and examining whether or not
16 this matter can be certified as a class action.
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19 5. To date, attorneys and support staff at THKO have expended over 280
20 hours in this matter.
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22 6. THKO is one of Florida's premiere trial firms with a nationwide
23 litigation practice. Highlighted below are some of the complex and class action
24 matters that have been handled by some of THKO's partners who will be working
25 on this matter.
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1 7. As noted above, Mr. Ostrow is the Managing Partner of THKO
2 responsible for overseeing the day to day operations of the firm. In addition to
3 managing the firm, Mr. Ostrow practices in the areas of catastrophic personal
4 injury, consumer class actions and commercial litigation. He has represented
5 thousands of individuals that have been injured as a result of defective products
6 and the negligence of corporations and individuals. Recently, he served as lead
7 counsel in a jury trial that resulted in a several million dollar jury verdict.
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11 8. Prior to THKO, Mr. Ostrow was in-house counsel for the largest
12 insurance rating company in the nation, responsible for overseeing multiple
13 national class actions and complex litigation. Mr. Ostrow is admitted to the United
14 States District Court for the Southern District of Florida, United States District
15 Court for the Middle District of Florida, and the U.S. Court of Appeals for the
16 Eleventh Circuit. He is an active member of the Florida Justice Association and
17 Broward County Bar Association. He has also been named as one of Florida's
18 "legal elite" attorneys, a finalist for the South Florida Key Partners Award and is a
19 Member of Cambridge Who's Who Among Executives and Professionals.
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23 9. Currently, Mr. Ostrow is co-counsel in the mast tort litigation
24 involving Bausch & Lomb and its allegedly defective Moistureloc lens cleaning
25 solution product. In that matter alone, he represents over 200 individuals that
26 suffered serious eye injuries as a result of using the product. Additionally, Mr.
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1 Ostrow has been involved with class actions relating to real estate developers and
2 automobile insurance carriers.

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4 10. David L. Ferguson, formerly of Steel Hector & Davis, LLP and
5 Berger Singerman, P.A., both nationally recognized firms, practices in the areas of
6 consumer class actions, product liability, catastrophic injury, commercial litigation,
7 and civil rights.
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10 11. Mr. Ferguson is AV Rated by Martindale Hubble. He is admitted to
11 practice before the United States District Court for the Middle and Southern
12 Districts of Florida, and all State Courts in Florida. He is a member of The Florida
13 Bar Association and the Broward County Bar Associations.
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15 12. Mr. Ferguson has extensive experience representing plaintiffs and
16 defendants in class action and proposed class action lawsuits involving product
17 liability claims (silicon breast implants, Benlate, contaminated blood products,
18 defective Dalkon Shield I.U.D.s, defective bone screws, and arsenic exposure) and
19 civil rights claims (gender, race, national origin, age, and disability) filed against
20 numerous large corporations, including Bayer, UTC/Pratt & Whitney, Dow
21 Corning, DuPont, Florida Crystals, A.H. Robins, U.S. Borax, Becton Dickinson
22 and Company, and Comcast.
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26 13. Adam J. Hodkin, a former partner at Holland & Knight, LLP, also a
27 nationally recognized firm, is the head of the Consumer Class Action division of
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1 THKO. In addition to overseeing the class action division, he concentrates his
2 practice in the areas of complex commercial trial work and business law.
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4 14. Mr. Hodkin has successfully handled class action lawsuits at the state
5 and federal level, including those involving allegations of Federal Communications
6 Act violations, Federal Driver's Privacy Protection Act, Truth in Lending
7 Violations, Banking law violations, Real Estate Settlement Procedure Act
8 violations, Unfair and Deceptive Trade Practices allegations, and others.
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11 15. In the commercial arena, Mr. Hodkin has litigated significant actions
12 involving banking and insurance fraud, prosecuted and defended multiple class
13 actions, real property title insurance claims, probate disputes, international legal
14 disputes, construction law issues, breaches of contract, negligence, and common
15 law fraud. Mr. Hodkin has litigated numerous cases involving the state, federal,
16 and local governments. Mr. Hodkin has obtained favorable outcomes for clients
17 involved in international and domestic extraditions, state felony and misdemeanor
18 matters, and federal white collar criminal actions based on defense contractor
19 procurement fraud and Immigration Reform and Control Act violations.
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23 16. Mr. Hodkin is admitted to practice before the Eleventh Circuit Court
24 of Appeals for the United States District Courts for the Southern and Middle
25 Districts of Florida and is a member of the Florida Bar's Client Security Trust Fund
26 Committee.
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1 17. In addition to THKO's extensive class action experience, the firm
2 boasts among its many clients, several Fortune 500 Companies, including, but not
3 limited to, the world's largest franchiser, largest home builder, largest hotel
4 management group and one of the largest cruise ship companies, as well as several
5 national insurance companies and banking institutions.
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8 18. Moreover, THKO has the experience and resources necessary to
9 represent the putative class and to prosecute this case through trial. The firm's
10 attorneys are not simply litigators, but rather, experienced trial attorneys with the
11 support staff needed to coordinate complex cases.
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14 19. THKO currently has 12 attorneys, and numerous support staff
15 members including legal assistants and paralegals. The firm's efficient staff is
16 trained in the use of cutting edge case management technology, state of the art
17 communication devices and computer programs which give the firm an advantage
18 in coordinating complex commercial matters and class action suits. The firm has
19 these significant resources at its disposal, and all of those resources will be
20 committed as needed to the representation of the putative class in this litigation.
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23 I declare under penalty of perjury under the laws of the United States of
24 America that the foregoing is true and correct.
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26 August 17, 2007
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JEFFREY M. OSTROW
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